REMARKS

In accordance with the foregoing, claims 1, 5, 9, and 10 are amended. No new matter is added. Claims 1-10 are pending and under consideration.

ALLOWABLE SUBJECT MATTER

Claims 2-4 were indicated as allowable if rewritten in independent form. Applicants acknowledge with appreciation the indication of allowable subject matter. However, since Applicants consider that claim 1, from which claims 2-4 depend, defines patentable subject matter, claims 2-4 are maintained in dependent form at the present time.

CLAIM REJECTION UNDER 35 U.S.C. §102

In the outstanding Office Action, item 2 on page 2, claims 1, 5, and 7-10 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 7,039,270 to Poti et al. (hereinafter "Poti").

Claim 1 is directed to a "wavelength allocation method of signal light for use when allocating signal lights of two or more waves on wavelength grids where previously determined wavelength spacing is made a base unit, in wavelength division multiplexing optical transmission in which wavelength division multiplexed signal light obtained by multiplexing a plurality of signal lights of different wavelengths is transmitted over an optical transmission path." The method includes (1) setting a consecutive allocation wavelength number of signal lights to be allocated consecutively on said wavelength grids, to different values, and (2) consecutively allocating the signal lights on said wavelength grids in accordance with the set consecutive allocation wavelength number.

Poti does not anticipate "**setting a consecutive allocation wavelength number** of signal lights to be allocated consecutively on said wavelength grids, **to different values** according to wavelength bands, based on wavelength dependence of a generation amount of four-wave mixed light on said optical transmission path" (emphasis ours). In Poti, each group (see 7, 8, 9 in FIG. 2) has three signals (see also line 31of Poti clearly stating "groups of **three** wavelengths"). In contrast, claim 1 is directed to a method in which the consecutive allocation wavelength number is set to different values. For example, FIG. 1 illustrates groups of 3 consecutive waves, 4 consecutive waves, etc. up to "n+1" consecutive waves. Since in Poti the number of wavelengths is fixed to three, Poti does not anticipate the "setting ..." as recited in claim 1.

Poti also fails to anticipate "consecutively allocating the signal lights on said wavelength grids in accordance with the set consecutive allocation wavelength number, but not allocating the signal light on at least one wavelength grid adjacent to the wavelength grids on which signal lights are consecutively allocated" as recited in claim 1. There are two reasons for which Poti does not anticipate the above-reproduced feature.

First, the three wavelengths in each group are not assigned to **consecutive** wavelengths. As explained in lines 33-36 of Poti, ". Each group occupies four grid positions, so that one grid position within each group is vacant and the first and last grid positions in each group are occupied." Since the first and the last wavelength from four consecutive wavelengths are occupied, one of the middle two wavelengths has to be free while the other one is occupied (i.e used by the third signal). Thus not all the wavelengths are **consecutively** used.

Second, the "consecutively **allocating** the signal lights on said wavelength grids" is performed "**in accordance with the set consecutive allocation wavelength number**." Since the wavelength number in Poti is fixed to three, Poti does not anticipate the allocating in accordance with the set number.

Therefore Poti fails to anticipate claim 1. Claim 1 and claims 2-8 depending from claim 1 patentably distinguish over Poti.

Claim 9 patentably distinguishes over the cited prior art by reciting "a device which consecutively allocates signal lights on wavelength grids [...], in accordance with the consecutive allocation wavelength number set to different values."

Claim 10 including the subject matter of claim 9 patentably distinguishes from Poti for the same reason as claim 9.

CLAIM REJECTION UNDER 35 U.S.C. §103

In the outstanding Office Action, item 4 on page 3, claim 6 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Poti in view of U.S. Patent No. 5,943,151 to Grasso et al. ("Grasso").

Grasso fails to correct or compensate for the above-identified deficiencies of Poti in teaching or suggesting all the features of claim 1. Therefore, claim 6 is also patentable at least by inheriting patentable features from claim 1 from which it depends.

NEW CLAIM 11

New claim 11 is directed to a wavelength allocation method and it is fully supported by the originally filed specification, for example, FIG. 1 and the corresponding description in the specification. Claim 11 patentably distinguishes over the cited prior art because groups of signals include different numbers of signals which are allocated consecutive wavelengths of the equally spaced wavelength grid.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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